



AN ORDINANCE BY

COUNCIL MEMBERS MARY NORWWOD, C.T. MARTIN,
CLAIR MULLER H. LAMAR WILLIS & HOWARD SHOOK

AS AMENDED BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENTS WITH THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) AND ENVIRONMENTAL PROTECTION AGENCY (EPA), SUBJECT TO APPROVAL BY THE COURT, TO MODIFY THE FIRST AMENDED CONSENT DECREE, CIVIL ACTION FILE NO. 1:98CV-1956-TWT; AND FOR OTHER PURPOSES.

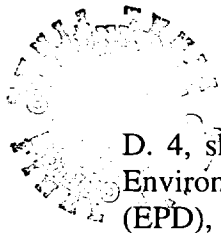
WHEREAS, the City of Atlanta is desirous of entering into agreements with the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA), subject to approval by the Court, to modify certain provisions of the First Amended Consent Decree (1:98-CV-1956-TWT); and

WHEREAS, the purpose of modification, as shown more particularly in the text attached in draft form as Exhibit "A", is to delete from the First Amended Consent Decree the requirement to construct the DeKalb Diversion Project by March 1, 2003 and delete the associated stipulated penalty of \$1,000,000.00 and moratorium for late construction after March 1, 2003; and, in lieu thereof, to substitute the Nancy Creek Lift Station and Tunnel Project to be constructed by August 31, 2005 and provide for imposition of the said penalty and moratorium for late construction, if any, only after August 31, 2005; and, on June 1, 2002 to suspend accrual of sewer capacity credits based on estimated reduction of inflow/infiltration contribution to peak flow in the Nancy Creek Sewer Basin and allow such credits to be expended in the Nancy Creek Sewer Basin only if available to the City as of June 1, 2002; and

WHEREAS, the City has recently incurred interest due on stipulated penalties assessed in the 2nd Quarter of 2002 in the amount of \$882.42. In order to avoid such assessment of interest the City is desirous of entering into agreements with the Georgia Environmental Protection Division (EPD) and the United States Environmental Protection Agency (EPA), subject to approval by the Court, for the additional purpose of modification of the First Amended Consent Decree to extend the time for payment of stipulated penalties from 30 days to 60 days after demand for the same.

NOW, THEREFORE, BE AND IT IS ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA as follows:

Section One: That the Mayor is authorized to enter into agreements with EPA and EPD, subject to approval of the Court, to modify the First Amended Consent Decree for the purposes set out above and shown with more particularity in the draft text attached as Exhibit "A" and that the date for compliance, consisting of construction and operation of the Nancy Creek Lift Station and Tunnel and as set out in Exhibit "A" in Paragraph XI.



D. 4, shall be established as of August 31, 2005 or, with agreement of United States Environmental Protection Agency (EPA) and Georgia Environmental Protection Division (EPD), on or before December 31, 2005; and

Section Two: That the City Attorney is hereby directed to prepare text for modification of the First Amended Consent Decree to accomplish the purposes set out above and substantially in the form of the draft text attached as Exhibit "A", and

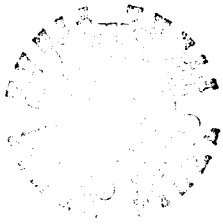
Section Three: That the Municipal Clerk shall forward a copy of this ordinance to the United States Department of Justice, United States Environmental Protection agency (EPA), the State of Georgia Law Department and the State of Georgia Environmental Protection Division (EPD).

A true copy,

Phonda Daughin Johnson
Municipal Clerk, OMC

ADOPTED as amended by the Council
APPROVED by the Mayor

MAY 20, 2002
MAY 28, 2002



DRAFT

Exhibit A

First Amended Consent Decree Proposed Changes – Nancy Creek Lift Station & Tunnel

The following Section shall be amended as indicated:

VIII.B.8.e

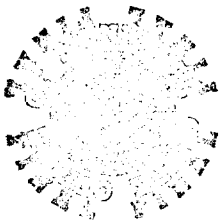
(vi.) Defendant certifies, pursuant to subparagraph VIII.B.8.h. below, that the estimated addition to sewer capacity, permanent removal of a sewer service connection, and/or the estimated reduction in the inflow/infiltration contribution to peak flow to be achieved by the projects identified in subparagraph VIII.B.8.e.(v.) above will be greater than the estimated addition to peak flow from the authorized sewer service connection or flow increase. In order to assure that the inflow/infiltration reduction is achieved, Defendant must certify that the estimated reduction will be greater than the estimated addition to peak flow by a factor of:

- five (5) to one (1) in the ~~Nancy Creek Sewerbasin, and the North Fork and South Fork, sewersheds of the Peachtree Creek Sewerbasins only until June 15, 2000, and, three (3) to one (1) thereafter, provided that if the Defendant certifies that the Defendant will complete the Nancy Creek/Peachtree Creek diversion project no later than June 30, 2002, three (3) to one (1) shall apply from the date such certification is transmitted; and~~
- five (5) to one (1) in the Nancy Creek Sewerbasin until such time as the capacity credits available to the City as of June 1, 2002 in the Nancy Creek Sewerbasin are expended; and,
- three (3) to one (1) in any other sewershed that cannot meet the criteria of subparagraph VIII.B.8.b., c., or d. above;

The following Section shall be amended as indicated:

XI.D.

2. The Defendant shall pay a stipulated penalty of \$1,000,000 and shall not allow any sewer connections in the ~~Nancy Creek Sewerbasin and North Fork and South Fork Sewersheds of the Peachtree Sewerbasin~~ unless the following provisions are met by March 1, 2003:
 - a. The Defendant's Wastewater Treatment Collection and Transmission Systems' Capital Improvement Program projects (Exhibit C) in those ~~Sewerbasins-Sewersheds~~ have been completed by March 1, 2003, or the agreed upon date of completion, whichever is sooner;



- b. ~~The DeKalb/Fulton flows are being diverted to the North Fork Sewershed of the Peachtree Sewerbasin in accordance with the Nancy Creek/Peachtree Creek diversion project (subparagraph VIII.B.8.e. above);~~
- eb. The North and South Fork Peachtree Relief Sewers are completed and in operation; and,
- dc. All capacity limiting segments are corrected so as to prevent capacity caused Sewerage Overflows in those Sewerbasins.

Should sewer connections become prohibited pursuant to this subparagraph XI.D.2., the Defendant may resume sewer connections in these Sewerbasins after all of these provisions have been met.

The following Section shall be added.

XI.D.

- 4. The Defendant shall pay a stipulated penalty of \$1,000,000 and shall not allow any sewer connections in the Nancy Creek Sewerbasin unless the following provisions are met by August 31, 2005:
 - a. The Defendant's Wastewater Treatment Collection and Transmission Systems' Capital Improvement Program projects (Exhibit C) in this Sewerbasin have been completed by August 31, 2005, or the agreed upon date of completion, whichever is sooner,
 - b. The Nancy Creek Tunnel Project (from the DeKalb County Line to the R.M. Clayton WRC) is completed and in operation;
 - c. All capacity limiting segments are corrected so as to prevent capacity caused Sewage Overflows in this Sewerbasin.

Should sewer connections become prohibited pursuant to this subparagraph XI.D.4., the Defendant may resume sewer connections in this Sewerbasin after all of these provisions have been met.

The first sentence of the following Section shall be amended as indicated:

XI.K.

Stipulated penalties shall be paid within ~~thirty (30)~~ sixty (60) days of EPA/EPD's written demand for payment of stipulated penalties for any noncompliance with any of the schedules of performance or requirements set forth in this First Amended Consent Decree.

RCS# 3746
5/20/02
3:20 PM

Atlanta City Council

Regular Session

02-O-0852

Agreements with EPD of GA & EPA
to Modify 1st Consent Decree
ADOPT AS AMEND

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	B Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

02-O-0852

(Do Not Write Above This Line)

ORDINANCE Mary Navarro & P. A. Kelly
City Manager
Oliver Muller Council Member

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENTS WITH THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) AND ENVIRONMENTAL PROTECTION AGENCY (EPA), SUBJECT TO APPROVAL BY THE COURT, TO MODIFY THE FIRST AMENDED CONSENT DECREE, CIVIL ACTION FILE NO. 1:98-CV-1956-TWT; AND FOR OTHER PURPOSES.

**ADOPTED BY
MAY 20 2002
COUNCIL**

AS AMENDED

- ☐ **CONSENT REFER**
☐ **REGULAR REPORT REFER**
☐ **ADVERTISE & REFER**
☐ **1st ADOPT 2nd READ & REFER**
☒ **PERSONAL PAPER REFER**

Date Referred 5/6/03

Referred To: City Utilities

Date Referred

Referred To:

Date Referred

Referred To:

Committee _____
Date _____
Chair _____
Referred to _____

First Reading

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd

Readings

☐ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

MAY 20 2002

THE
WORLD
OF
THE
FUTURE

200

1924

100

22-11-1964

MAYOR'S ACTION

MAY 28 2002

MAILED 2000
JUN 20 2000
FBI - NEW YORK
Handley